IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO. 10 OF 2003

Bhag Singh
Presently serving sentence
at Central Jail, Aguada. ... Petitioner.

versus

1. State of Goa
   Through Chief Secretary,
   Panaji, Goa.

2. Inspector General of Prisons,
   Collector North, Panaji, Goa.

3. Superintendent of Police,
   North, Panaji-Goa. ... Respondents.

Mrs. A. A. Dessai, Advocate for the Petitioner.

Mr. S. N. Sardessai, Public Prosecutor for the State.

CORAM: P. V. HARDAS, J.

DATED: 3RD JULY, 2003.

ORAL JUDGMENT

The Petitioner being aggrieved by the Order passed by the learned Inspector General of Prisons, Panaji, Goa, dated 8th January, 2003, rejecting the request of the Petitioner to release him on parole for 45 days, has filed the present Petition.

2. The Petitioner had applied for grant of

parole of 45 days by his application dated 15th October, 2001 on the ground that his mother aged about 65 years is keeping indifferent health and that there was no one to look after her. The learned Inspector General of Prisons, Panaji, Goa, has declined to grant parole to the Petitioner on the sole ground that the Police Report of Kullu District does not recommend the grant of parole. The learned Inspector General of Prisons, Panaji, Goa, has also observed that the said Report did not state that in the event the Petitioner was released on Bail, there would be no breach of peace. The second reason is that the Petitioner has to serve the maximum sentence imposed on him and if released on parole, there was likelihood of the Petitioner absconding.

3. Mr. S. N. Sardessai, learned Public Prosecutor appearing on behalf of the State has placed on record the Report received from the Superintendent, Kullu Police Station, dated 25th November, 2002. In the said Report, it is stated that the Petitioner is a resident of Kullu District. His mother who is aged 60/65 years has been ill for quite some time and there was no one to look after her. The said Report does not state anything adverse to the Petitioner nor does it recommend the release of the Petitioner on parole.

4. I have heard Mrs. A. A. Dessai, learned Counsel appearing on behalf of the Petitioner who has urged before me that it is for the Authority i.e. Inspector General of Prisons,Panaji, Goa, to apply his mind to the reasons stated by the Petitioner for being released on parole. The reasons given by the learned Inspector General of Prisons, Panaji, Goa, for rejection of the parole are wholly unsustainable.

5. If, the learned Inspector General of Prisons, Panaji, Goa, found that the Report submitted by the Superintendent of Police of Kullu District did not state anything adverse to the Petitioner but at the same time, did not recommend to grant parole, it was obligatory on the part of the Police to have again corresponded to the Police and solicited recommendation for release. The parole application could not have been rejected on this ground alone. The learned Inspector General of Prisons, Panaji, Goa, ought to have taken into consideration that the Report did not state that the Petitioner if released on parole would commit breach of peace.

6. The Order of the learned Inspector General of Prisons, Panaji, Goa, dated 8th January, 2003, is wholly unsustainable in law. The impugned Order is, therefore, quashed and set aside. The learned

Inspector General of Prisons, Panaji, Goa, shall take necessary steps to secure the Report from the Superintendent of Police, Kullu District and examine the application of the Petitioner on merits and decide the same within three months from today.

7. Criminal Writ Petition No. 10 ot 2003 is accordingly allowed. Rule made absolute on the above terms with no order as to costs.

P. V. HARDAS, J.

RD.